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The right to believe, to worship and witness
The right to change one's belief or religion
The right to join together and express one's belief

Working Session 11 - Freedom of thought, conscience, or belief

Speaking of the approach of some participating States to the commitments at the heart of the OSCE such as human rights, the keynote speaker of this year's HDIM Professor Adam Rotfeld bluntly reminded us: "Even if accepted in a declaratory way, they [commitments] are rejected in political practice. If common values—aside from common interests—fail to be respected, the security community will simply be a façade". Professor Rotfeld here points to the intention behind the human dimension commitments: to create a comprehensive framework for peace and stability. To succeed in this, participating States must implement commitments in laws, regulations, practices and policies.

Full implementation would embrace facilitating the activity of religious and belief communities and other civil society actors. Yet the exercise of freedom of religion or belief by people in association with others without state permission is banned in all participating States in Central Asia, as well as in Azerbaijan and Belarus. Last October Kazakhstan signed into law two restrictive new laws on freedom of religion or belief on the same day it applied to join the Council of Europe's Commission for Democracy through Law. (The application was accepted.) Among other violations of human dimension commitments, the laws empower state officials to check a group's ideas in order for it to gain permission to exist. Compulsory censorship of religious literature and objects is also imposed, with restrictions on where they can be distributed. The laws limit the interlocking freedoms of religion or belief, assembly, association, and expression.

Among many other violations since the laws were passed, Ahmadi Muslims nationwide and people of faiths from Methodists to Muslims have been banned from meeting for worship. All congregations with fewer than 50 adults willing to be identified for registration purposes are banned, as are all communities that do not wish to seek state permission to exist. Similarly, independent mosques that refuse to join the official Muslim Board face being closed down. The senior state religious affairs official described the removal of registration from 579 small religious groups as a "positive dynamic", and said the number of registered communities "will probably" fall further under the Religion Law. The deadline for all religious communities to apply to exist - itself a violation - is 25 October this year.

The wish to impose state control goes to the very top. President Nazarbaev initiated a meeting to review the Religion Law's implementation, which was attended by then State Secretary Kanat Saudabaev (who was in 2010 OSCE Chairperson-in-Office) and about 20 senior officials from a variety of ministries. Saudabaev identified a "first phase" as including adopting the Religion Law, and said that "an algorithm of further actions for the planned implementation of the instructions of the Head of State" is to follow.

As ODIHR Director Ambassador Janez Lenarčič commented last year: "The new law appears to unnecessarily restrict the freedom of religion or belief and is poised to limit the exercise of this freedom in Kazakhstan". He also noted that: "It is disappointing to see that the law does not take into account the earlier comments by ODIHR and that it was passed without significant public consultation". The earlier ODIHR comments found that "many serious issues remain with respect to the Proposed Religion Law's compliance with international human rights standards".

Implementing human dimension commitments increases the stability of participating States. Implementation also recognises the diversity of the religious and belief communities and other civil society actors in the OSCE region. Russia, for example, is surely the world's only nation-state with large centuries-old communities of Buddhists, Christians, Jews and Muslims - to say nothing of those of other beliefs and no belief. Yet as Geraldine Fagan, Forum 18's Russia and Belarus Correspondent, argues in her book *"Believing in Russia - Religious Policy after Communism"* (to be published by Routledge this month), continuing failure to resolve the question of whether Russia is to be an Orthodox country with religious minorities or a multi-confessional state is destabilising the nation.

This question has also appeared in the Pussy Riot case, which is not a religious freedom issue. But the state labelled their actions as motivated by "religious hatred and enmity", accusing the group of "opposing the Orthodox world", "attempting to devalue church ... dogma treasured and revered for centuries" and even "disparaging the spiritual foundations of the state". The state's reaction raises serious questions about its proportionality and ignores the widely differing reactions among Orthodox Christians to three of the group being given two years in jail after five months pre-trial detention.

But the largest threat to freedom of religion or belief in Russia is ongoing nationwide use of the Extremism Law against those who the authorities dislike - especially Muslims who study the works of Said Nursi, and Jehovah's Witnesses. The Law has vague wording regarding "exclusivity, superiority or lack of equal worth" and "incitement .. of religious discord". Its main mechanism for prosecuting the "offence" of criticising a religion or belief is the designation of literature containing such criticisms as extremist. Even a very low-level court may make such a designation. If not successfully challenged, this results in placement of the literature on the Federal List of Extremist Materials. Once literature is on the List, distribution is banned and punishable throughout Russia. Religious organisations associated with such titles may also be ruled extremist. Their members are then liable to criminal prosecution for organisation of extremist activity. The harshest punishment allowed is six years' imprisonment.

Raids by the FSB security service and riot police on Nursi readers' homes take place across Russia. Hundreds of Jehovah's Witnesses have been detained, typically being held for several hours, searched for literature, fingerprinted, photographed, but not charged. Despite long investigations and often lengthy trials few "extremism" cases end with convictions, and fewer with jail terms. Of 18 Nursi readers and Jehovah's Witnesses whose "extremism"-related trials are known to have been completed, five (all Nursi readers) ended with jail terms, five (all Nursi readers) ended with suspended sentences, two (both Jehovah's Witnesses) ended with community service orders, two (both Jehovah's Witnesses) ended in acquittals, and the trial of four Nursi readers ran out of time. Trials and investigations against others continue. Even without a final conviction, the long-running nature of "extremism"-related cases can itself be a form of punishment. And the Extremism Law allows multiple prosecutions until a criminal conviction is secured.

In June 2011 Russia's Supreme Court recommended that criticism of religious associations, convictions and customs "in and of itself should not be considered as action directed at inciting hatred or enmity". In June 2012 the Venice Commission pointed out that, as the European Court of Human Rights protects "the freedom of the members of any religious community or church to 'try to convince' other people through 'teachings' ... only manifestations of this freedom can be limited, but not the teachings themselves." Such warnings are having no discernible impact. Indeed, the draft law to make "insulting the religious feelings of others" illegal may add to the serious violations of freedom of religion or belief that take place in Russia.

The pursuit of "extremism" has not stopped with Muslim readers of Nursi's works and Jehovah's Witnesses. Other groups who have been detained, investigated or warned include Baptists, Hare Krishna devotees, Lutherans and Pentecostals. Prosecutors unsuccessfully tried to have the Russian translation of the "Bhagavad-Gita As it Is" - a key text for Hare Krishna devotees - ruled extremist. Russia's ambassador to India described his fellow state officials who initiated the case as "madmen".

Serious freedom of religion or belief violations also happen in other participating States, including: Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. They draw attention to the urgent need for implementation of participating States' commitments. To assist implementation, recommendations for participating States and OSCE institutions would include:

- freedom of religion or belief violations to be seen not only as attacks on particular people or communities, but also as attacks on the fundamental rights and freedoms of all people;
- insisting that the politically binding human dimension commitments are for implementation by all participating States;
- OSCE institutions and field operations mainstreaming the fundamental human right of freedom of religion or belief for all and its related human rights in human dimension work;
- and participating States implementing in full legal reviews and opinions provided by the Venice Commission and the OSCE/ODIHR Advisory Council of Experts on Freedom of Religion or Belief.

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